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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,298	07/29/2003	Sheldon Joseph Grywacheski	16448-US	6459

7590 06/18/2004

Patent Department  
DEERE & COMPANY  
One John Deere Place  
Moline, IL 61265-8098

EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/629,298

Applicant(s)

GRYWACHESKI ET AL.

Examiner

Nathan S Mammen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/29/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 13 recites “the crop processing element...sweeps a cylindrical path upon rotation of the rotor.” This limitation is already recited in independent claim 9, from which claim 13 depends.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,454,758 to Tophinke et al.

The Tophinke ‘758 patent teaches an agricultural harvester having a crop processing unit comprising a rotor and a housing. The rotor comprises a drum having a rearward cylindrical portion (17) and a forwardly extending frusto-conical portion (18). The frusto-conical portion comprises an aft-region adjacent to the rearward cylindrical portion and a fore-region. The rotor further comprises an infeed section having an infeed element (see Fig. 3, at the point labeled “19”) for receiving the crop material. The infeed section is located at the fore-region. The rotor

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comprises a crop processing section (Fig. 2, generally indicated by "13") for processing harvested crop material received from the infeed section. The crop processing section has at least one crop processing elements (20) located on the aft-region of the frusto-conical portion of the drum (Fig. 2).

Regarding claims 2-8, 10-15, 17-20: The crop processing element sweeps a cylindrical path upon rotation. The crop processing element is a threshing element. The infeed element is a helical flight. The crop processing element is also located on the rearward cylindrical portion of the drum (Fig. 2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,296,566 to Tanis et al. in view of U.S. Patent No. 4,422,463 to West, cited by Applicant.

The Tanis '566 patent discloses an agricultural harvester having a crop processing unit comprising a rotor and a housing. The rotor comprises a drum having a rearward cylindrical portion (64) and a front frusto-conical portion (62). The frusto-conical portion includes an infeed section having at least one infeed element (32). The infeed element is a helical infeed flight. The rearward cylindrical portion (64) is a crop processing section and inherently includes crop processing/threshing elements. What the Tanis '566 patent does not disclose is that the frusto-conical portion includes crop processing elements. The West '463 patent teaches that it is

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known in the art to provide the infeed of a crop processing unit with crop processing elements (70). When the elements are rotated about the rotor, the elements (or at least the lead element) sweep a generally cylindrical path. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the infeed section of the Tanis '566 patent with the crop processing elements as taught by the West '463 patent, in order to improve the feeding of the crop into the rotor (col. 2, line 10 – col. 3, line 2).

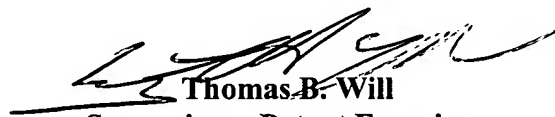
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**NSM**  
**6/10/04**

**Nathan S. Mammen**